

VICTOR EUGENE JOSEPH,
Petitioner,
vs.
STATE OF OKLAHOMA et al.,
Respondents.

ORDER

In an Order entered on April 14, 2016, United States Magistrate Judge Charles B. Goodwin directed petitioner Victor Eugene Joseph, a state pretrial detainee, to pay the filing fee of \$5.00 or submit a completed application for leave to proceed in forma pauperis. See Doc. 12 at 2-3. Joseph was warned that his failure to do so within the allotted time may result in the dismissal of this action. See id. at 3.

Although Joseph took no action in response to that Order, Magistrate Judge Goodwin on May 12, 2016, found that Joseph should nevertheless "have one final opportunity to cure the deficiencies previously designated [in his papers]." Doc. 13 at 2. Joseph was again directed to pay the filing fee or file an application seeking leave to proceed in forma pauperis, see id., and he was also again told that his failure to comply may result in the dismissal of his lawsuit. See id. at 2-3.

Because Joseph neither paid the filing fee nor submitted an application to proceed in forma pauperis, Magistrate Judge Goodwin on June 28, 2016, issued a Report and Recommendation and recommended that this matter be dismissed for failure to prosecute and failure to comply with the Orders issued in April and May and applicable procedural

rules. Joseph was advised that he had the right to object, see Doc. 14 at 5, to Magistrate Judge Goodwin's suggested dismissal of this action.

On July 14, 2015, the Court received what it construed as a request, among other things, for additional time to respond to Magistrate Judge Goodwin's Report and Recommendation. See Doc. 15. Joseph also submitted a handwritten "Affidavit in Forma Pauperis," see id. at 5, wherein he stated he lacked sufficient funds to pay the filing fee.

Upon review, the Court on July 15, 2016, granted Joseph an extension of time to object to the Report and Recommendation, advised him that no further extensions of this deadline would be granted and reminded him of the consequences of his failure to timely object. See Doc. 16 at 2 (citing Doc. 14 at 5 (petitioner is advised that failure to timely object to Report and Recommendation waives the right to appellate review of both factual and legal issues contained therein)).

The Court further found that Joseph's "Affidavit in Forma Pauperis" file-stamped July 14, 2016, was insufficient and that it did not cure the deficiencies described by Magistrate Judge Goodwin in his Orders. See id. The Court directed the Clerk of the Court to mail Joseph a copy of a form entitled "Application for Leave to Proceed in Forma Pauperis" as well as a copy of the "Guidelines for Commencing Actions in Forma Pauperis," and admonished Joseph that if he wished to seek leave to proceed in forma pauperis, he must complete the form and return it, with the required certification and statement of institutional account(s), to the Clerk. See id.

In response, the Court has received a paper wherein Joseph has stated that due to certain circumstances he has encountered he "wishes to go forward and proceed on with [this] . . . case, without in forma pauperis application." Doc. 17 at 2. He has repeated

in this document that he is "poor [and] without funds or property or relatives willing to assist [him] . . . in paying for the [filing fee]" Id. at 4.

Joseph was advised to either pay the filing fee or cure the deficiencies with respect to his Application for Leave to Proceed in Forma Pauperis. See Doc. 2. As the record reflects, Joseph has been given sufficient time to act, and he has been adequately warned about the consequences of his failure to do so.

Because Joseph has neither paid the filing fee, filed an application for leave to proceed in forma pauperis to which is attached the required financial information that would establish Joseph's indigence, nor shown good cause for his failure to do so within the allotted time, the Court

- (1) ADOPTS the Report and Recommendation [Doc. 14] issued on June 28, 2016;
- (2) DENIES Joseph's Application for Leave to Proceed in Forma Pauperis [Doc. 2] file-stamped February 3, 2016; and
- (3) DISMISSES this matter without prejudice for failure to comply with the Orders and directives of this Court and of Magistrate Judge Goodwin.

ENTERED this 24th day of August, 2016.


LEE R. WEST
UNITED STATES DISTRICT JUDGE